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and CHRISTOPHER HOWARD,
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16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
18

19 SYNERGY ADVISORS, LLC,

20 Plaintiff,

21 v.

22 GOOLD HEALTH SYSTEMS, INC., a
Maine corporation; JIM CLAIR, an
23 individual; WILLIAM WALDRON, an
individual; THE WALDRON GROUP,
24 a Maine corporation, CHRISTOPHER
HOWARD, an individual, and DOES 1-
25 25, inclusive,

26 Defendants.
27
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Case No. CV 13-06410-MMM(JCGx)

Assigned to Hon. Margaret M. Morrow

**[PROPOSED] PROTECTIVE
ORDER**

*[Joint Stipulation Regarding Protective
Order Filed Concurrently]*

1 discovery response, declaration, affidavit, brief, memorandum, electronic file, or
2 other material. As used herein, "Producing Party" shall refer to any party, including
3 the Parties to this Action and non-parties, who disclose and/or produce any
4 Confidential Material in this Action. "Receiving Party" shall refer to the Parties to
5 this Action who receive Confidential Material from a Producing Party. Nothing
6 herein shall be construed as a waiver of any Party's ability to seek an enhanced level
7 of protection for documents and information sought in discovery.

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9 2. Confidential Material may be made subject to the Protective
10 Order by marking documents, discovery responses, declarations, affidavits, briefs,
11 memoranda, or other material by affixing the legend "CONFIDENTIAL UNDER
12 PROTECTIVE ORDER" or a similar marking on each page of the document,
13 discovery response, declaration, affidavit, brief, memorandum, or other material.
14 Any Party or non-party from whom discovery is sought in this Action, and who is
15 producing or disclosing information which it reasonably believes in good faith
16 constitutes Confidential Material, may designate it as set forth herein.

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18 3. Each party that designates information or items for protection
19 under this Protective Order must take care to limit any such designation to specific
20 material that qualifies under the appropriate standard. The Producing Party must
21 designate for protection only those parts of material, documents, items, or oral or
22 written communications that qualify, so that other portions of the material,
23 documents, items, or communications for which protection is not warranted are not
24 swept unjustifiably within the ambit of this Protective Order. Mass, indiscriminate,
25 or routinized designations are prohibited. Designations that are shown to be clearly
26 unjustified and that cause the Receiving Party to incur undue expense to challenge
27 the designation will expose the Producing Party to sanctions.

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1 4. Inadvertent failure to designate any information, documents or
2 materials as Confidential Material shall not waive the Producing Party's right to later
3 designate such information, documents or materials as Confidential Material,
4 provided that such designation is made promptly upon discovery of the inadvertent
5 failure. To the extent applicable, the Producing Party shall then promptly provide
6 the Receiving Party with new copies of the information, documents or materials
7 with the proper designation. Once notified of the inadvertent failure, all parties shall
8 treat the late-designated information, documents or materials as Confidential
9 Material under the terms of this Protective Order. If, before the Producing Party
10 notifies a Receiving Party of such designation of already-produced information,
11 documents or materials, they have been disclosed or used in a manner inconsistent
12 with the subsequent designation, the Receiving Party shall promptly notify the
13 Producing Party upon receiving notice of the designation as Confidential Material.
14

15 5. Confidential Material shall be used only for purposes of this
16 litigation, and shall not be made public or disclosed to third parties in connection
17 with any pre-trial proceedings, except as described in Paragraph 5 herein.
18 Confidential Material may be removed from the protections of this Protective Order
19 in writing by the Producing Party, or by order of this Court.
20

21 6. Disclosure of Confidential Material shall be limited to the
22 following:

- 23 (a) the Parties and their employees;
24 (b) the Parties' outside counsel and personnel employed by
25 outside counsel in this Action;
26 (c) the Court and its personnel;
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- 1 (d) court reporters and their staff, professional jury or trial
2 consultants, and independent litigation support vendors to whom
3 disclosure is reasonably necessary for this litigation;
4 (e) independent experts or consultants to whom disclosure is
5 reasonably necessary for this litigation; and
6 (f) witnesses in the action to whom disclosure is reasonably
7 necessary.

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9 7. Each (a) consultant or outside vendor authorized pursuant to
10 Paragraph 5(d), *supra*, (b) expert or consultant authorized pursuant to Paragraph
11 5(e), *supra*, and (c) witness authorized pursuant to Paragraph 5(f), *supra*, shall, prior
12 to or concurrently with being given access to Confidential Material, acknowledge in
13 writing his or her familiarity with the terms of this Protective Order and execute the
14 Agreement to Comply with Stipulated Protective Order, attached hereto as
15 **Exhibit A.**

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17 8. In all pre-trial filings, the Receiving Party shall file Confidential
18 Material it has received from the Producing Party according to the procedures set
19 forth in the Court's Pilot Program -Instructions To Attorneys Procedures For Filing
20 Under Seal Documents and, to the extent consistent with such Pilot Program, Local
21 Rule 79-5. This Protective Order shall not govern the procedures for the
22 introduction of exhibits at trial or the sealing of the record at trial, without prejudice
23 to any party's ability to seek protection for, or limit disclosure of, sensitive or
24 confidential material at trial to the extent permitted by law.

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26 9. In the case of depositions, if a question contains, or if a question
27 calls for an answer that contains, or if an exhibit contains Confidential Material,
28 counsel may designate on the record during the deposition the information that

1 contains Confidential Material that is to be made subject to the provisions of this
2 Order. The court reporter shall be instructed to mark the deposition transcript
3 accordingly. Following the deposition, the witness under deposition or his counsel
4 shall have the right, within seven calendar days of receiving a transcript of the
5 deposition, to designate or change the confidentiality designation of the transcript or
6 portions thereof.

7
8 10. In the event that any Receiving Party receives a subpoena or
9 other process or order to produce Confidential Material, such party shall notify the
10 counsel of record of the Producing Party of the document sought by such subpoena
11 or other process or order, and shall provide counsel for the Producing Party a copy
12 of said subpoena, process, or order. The Party asserting the confidential treatment
13 shall have the burden of defending against such subpoena, process, or order. The
14 party receiving the subpoena, process, or order shall be entitled to comply with it
15 except to the extent the Party asserting the confidential treatment succeeds in
16 obtaining an order modifying or quashing such subpoena, process, or order.
17 Nothing in this paragraph should be construed as authorizing or encouraging a
18 Receiving Party to disobey a lawful directive from another court.

19
20 11. Nothing herein shall be construed as affecting any Party's ability
21 to use any information designated as Confidential Material under this Protective
22 Order if the Receiving Party can show that the information: (a) is at the time of
23 disclosure, or thereafter becomes, through no act or omission by the Receiving Party
24 or its employees, a part of the public domain; (b) is subsequently independently
25 developed by the Receiving Party without reliance on the Confidential Material or
26 was in the Receiving Party's lawful possession prior to disclosure; or (c) was
27 lawfully disclosed to the Receiving Party by a non-party that did not acquire the
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1 information under an obligation of confidentiality from or through the Producing
2 Party.

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4 12. Nothing herein, nor acceptance by a Receiving Party of
5 Confidential Material with or without a challenge to the confidentiality designation,
6 shall be construed as an agreement or admission that any information, document, or
7 other item designated as Confidential Material is in fact confidential, trade secret, or
8 competitively-sensitive material. If a Party to this Protective Order seeks to contest
9 the designation of any information, materials or documents designated by another
10 party as Confidential Material, that Party may do so by noticed motion or *ex parte*
11 application to the Court. Such motion or application shall be accompanied by a
12 declaration demonstrating a reasonable and good faith effort to informally resolve
13 the dispute. In any challenge to the designation of Confidential Material, the
14 proponent of the Confidential Material designation shall bear the burden of proof
15 and must justify the propriety of the designation. Disputed material shall remain
16 protected as designated under this Order until the Court rules on the motion or
17 application regarding that designation.

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19 13. Within thirty (30) days of the conclusion of the Action, including
20 any appeal, all Confidential Material shall be destroyed by the Receiving Party.
21 Notwithstanding the foregoing, outside counsel of record for each party may retain
22 for its archives: (a) one full set of copies of all pleadings, affidavits, declarations,
23 briefs, memoranda, expert reports, and exhibits and other papers filed in this Action;
24 (b) one set of transcripts of all testimony taken at any depositions, hearings or trial
25 (with exhibits); and (c) all of its work product generated in connection with this
26 Action.

1 14. The Protective Order may be modified only in writing by the
2 parties and approved by an order of the Court, or by motion to the Court, or by the
3 Court on its own order.

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5 **IT IS SO ORDERED.**

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7 Dated: February 10, 2014

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10 The Honorable Jay C. Gandhi
11 United States Magistrate Judge
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EXHIBIT “A”

Agreement Concerning Material Covered by Protective Order

I, _____, hereby affirm the following:

1. My address is _____. My telephone number is (____) ____ - _____.

2. I have read and I understand the Protective Order (“**Protective Order**”), entered in the action *Synergy Advisors, LLC v. Goold Health Systems, Inc. et al.*, Case No. CV 13-06410-MMM(JCGx), United States District Court, Central District of California, and I agree to be bound by its terms.

3. I understand that this Protective Order requires me not to disclose any information designated as CONFIDENTIAL UNDER PROTECTIVE ORDER that is provided to me in the course of my involvement in this litigation to any person not authorized by this Protective Order to receive such information. I further agree that I will use the Confidential Material solely for purposes of this litigation in accordance with the Protective Order.

4. I agree that I shall return all documents containing any information designated as CONFIDENTIAL UNDER PROTECTIVE ORDER that have been provided to me, together with any work product including such information designated as CONFIDENTIAL UNDER PROTECTIVE ORDER upon demand by the Court or the counsel or Party or third party who furnished such information to me.

